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**A PUBLICATION OF THE NEW JERSEY DIVISION OF PENSIONS AND BENEFITS**

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# Employment After Retirement

Public Employees' Retirement System

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As people are retiring at an earlier age and living longer after retirement, the question of how employment after retirement will affect pension benefits is becoming more important. This fact sheet provides information a Public Employees' Retirement System (PERS) retiree should consider when deciding on returning to the work force in either a full- or part-time capacity.

Working for private industry, the federal government, or a government agency in another state will not normally affect your PERS retirement benefits. (See the Disability Retiree section on page 3 for exceptions to this.) Returning to public employment in New Jersey after retirement, however, could affect your benefits as shown in the following information. Your prospective employer should be able to tell you whether the employment you are considering is covered under the PERS.

## **PERS RETIREE RETURNING TO WORK IN A PERS COVERED POSITION**

### **PERS Membership Continued**

When you return to PERS covered employment is critical in determining your PERS status. You should expect to continue enrollment in PERS if you start working in a PERS covered position before your pension has become due and payable. A pension benefit is due and payable 30 days after the date of Board approval, or the retirement date, whichever is later. You must have at least a 30-day break in service after your retirement date to be considered retired from the PERS. If you return to PERS covered employment within 30 days of your retirement date, your retirement is not valid, and you are considered an active employee.

### **PERS Enrollment Required**

In addition to the State agencies, over 1800 local employers throughout the State participate in the PERS. You should expect to be reenrolled in the PERS if you accept employment with the State or any of the local participating employers in a PERS covered position and:

- Your aggregate salary from all post-retirement public employment exceeds \$15,000 in a calendar year (except disability retirees, see below), and
- Your position is not covered by a different State-administered retirement system.

### **PERS Enrollment Not Permitted**

You cannot rejoin the PERS if:

- The aggregate annual salary or salaries for the position or positions does not exceed \$15,000 in a calendar year, or \$1,499 from a single employer for those retired on a disability retirement;
- The position is not covered by Social Security;
- You are employed with an institution of higher education in a teaching position covered by the PERS;
- You are a seasonal or intermittent employee;
- You are employed by the New Jersey Department of Education\* in a position of critical need as determined by the Commissioner of Education; or
- You are employed by a board of education\* in a position of critical need as determined by the superintendent of the district on a contractual basis for a term of not more than one year. You will be able to renew the employment contract for one additional year; however, your total period of employment with any individual board of education may not exceed a two-year period.

### **PERS Enrollment Optional**

Enrollment in the PERS is optional if you are:

- A special service employee hired under the federal Older American Community Service

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\*Chapter 355, P.L. 2001 provides that if you accept employment with the same employer from which you retired within 120 days of retirement, you would have to reenroll in the retirement system.

Employment Act; or

- A non-veteran elected official.

If you decide not to enroll in the PERS, you are entitled to collect your PERS retirement allowance while you are receiving salary as an elected official or special service employee.

### **\$15,000 Salary Threshold**

A PERS retiree may be hired in a PERS position without having to resume active membership in the PERS provided that the aggregate calendar year salary or salaries of the new position or positions does not exceed \$15,000. The retiree must also have had a break in service of at least 30 consecutive days after the retirement date prior to the resumption of employment in the new position.

Chapter 278, P.L. 2001, changed the \$10,000 threshold for reenrollment in the PERS to \$15,000. It also changed the calculation for determining when the threshold would be reached. Prior to the enactment of Chapter 278, a PERS retiree who returned to work with more than one PERS employer could consider the salaries earned at each employer separately for the \$10,000 annual limit. For example, if an employee's annual salary at one employer was \$9,000 and the annual salary at another employer was \$7,500, the employee would not have been required to reenroll in the PERS. Chapter 278 now provides that a PERS retiree may return to PERS covered employment and earn an aggregate amount of \$15,000 or less in a calendar year. All PERS covered employment is considered in determining whether the \$15,000 threshold has been reached. For example, a retiree who earns \$7,000 per year from two PERS positions (\$14,000 annually) would not be eligible to reenroll, but a retiree who earns \$7,501 per year from two PERS positions (\$15,002) would be required to reenroll.

Regardless of the type of position you accept (except hourly), you should expect to be reenrolled in the PERS if your contractual compensation is more than \$15,000 per year. **If you work for more than one PERS employer, and you know that your combined contractual salary will exceed \$15,000, you should inform your employers immediately so that you may be reenrolled in the**

### **PERS as of the beginning of your employment.**

If you are an hourly employee, you should expect to be reenrolled in the PERS as soon as your compensation exceeds \$15,000 in a calendar year. For example, a PERS retiree working on an on-call basis as a substitute teacher would not be reenrolled until the \$15,000 threshold was reached. If you are employed by more than one public employer on an hourly or per diem basis after retirement, it is your responsibility to keep track of your salaries in order to determine when you reach or will reach the \$15,000 threshold. Once you are about to reach this threshold, you should inform your employers so that you may be reenrolled.

**If you are employed by more than one public employer after retirement, it is your responsibility to keep track of your salaries in order to determine when you reach or will reach the \$15,000 threshold and to inform your employers when you reach this threshold.**

Your employers cannot do this for you because they do not share payroll information with each other. Annually, the Division of Pensions and Benefits does compare retirement lists against NJ Department of Labor and Workforce Development wage reporting records from public employers in New Jersey. Therefore, PERS retirees who exceed the \$15,000 earnings limit without reenrolling will be identified. You should be very aware of this earnings limitation and be careful not to exceed it. If the Division becomes aware of earnings in excess of the \$15,000, you will be required to suspend your retirement allowance and be reenrolled in the PERS. You would also be required to reimburse the Division for any retirement benefits you received after the threshold amount was reached and make pension contributions back to the date of your reenrollment.

**If you have returned to employment and reenrolled in the retirement system, you must remain in the system as an active employee until you terminate all PERS covered employment and retire again. Falling below the Chapter 278 earnings limit does not eliminate the requirement that you continue to contribute to the PERS.**

### **EFFECT ON RETIREMENT BENEFITS IF**

**A PUBLICATION OF THE NEW JERSEY DIVISION OF PENSIONS AND BENEFITS****REEMPLOYED IN A PERS ELIGIBLE POSITION**

Unless otherwise stated above, you must reenroll in the PERS as a condition of your employment if you are collecting retirement benefits, other than disability retirement benefits, from the PERS, and you accept full- or part-time employment in a position covered by the PERS. Your retirement allowance will be suspended for the duration of your employment, and you become an active contributing member again. (If you are over age 60, you must prove insurability for life insurance coverage.) If you die while in the second membership, no benefits from the previous membership or retirement are payable, other than the return of your contributions not used to pay your retirement allowance. This means that retirement option settlements and death benefits (insurance) from the suspended retirement would not be paid to your beneficiaries.

If you return to employment under the PERS and are eligible for membership but you fail to enroll, you would be required to reimburse the retirement system in the amount of all retirement benefits you received since the date you should have enrolled. In addition, you would be required to pay pension contributions in the form of back deductions back to your enrollment date. Your employer may also be liable for pension and Social Security contributions. There is no limitation on the amount of reimbursement that may be recovered by the retirement system in these situations.

The following steps should occur when you are reemployed in a PERS position and reenrolled:

1. Your employer must submit a PERS enrollment application on your behalf to the Division of Pensions and Benefits.
2. The Division will suspend your retirement allowance as of the date you are required to reenroll in the PERS. The date of enrollment is not negotiable. The Division will process your enrollment application and send a certification to deduct pension contributions to your employer.
3. The Division will bill you for any retirement payments you received after the effective date of your new PERS enrollment. Because of the sequence of events, most retirees are enrolled in

the PERS on a retroactive basis. You should therefore anticipate that you will be required to refund one or more pension checks to the retirement system.

4. You must file an application for retirement on or before the effective date of your second retirement. Your former retirement allowance and any option selection will be restored along with any appropriate cost-of-living adjustment due based upon your original date of retirement. In addition, you will receive a retirement allowance based upon your new period of service. These two calculations are paid in one retirement check.

You cannot combine your first and second account to qualify for a Veteran Retirement. Service credit from your first and second account can be combined to qualify for employer-paid State Health Benefits Program coverage. In order to receive this coverage, you must meet the eligibility requirements for State or employer-paid coverage from your final employer in the retirement system from which you last retire.

**Note:** Any additional allowance due as a result of the second period of service will be determined under the Service Retirement formula; a reduction applies if the retiree is under age 55. By law, the combined retirement allowances cannot be greater than the allowance you would have received if your first retirement had not occurred.

**RETURNING TO WORK IN A POSITION  
COVERED BY A DIFFERENT NEW JERSEY  
STATE-ADMINISTERED RETIREMENT  
SYSTEM**

In this case, your retirement allowance continues and you can receive salary but you cannot become a member of that retirement system.

**DISABILITY RETIREES RESTORED TO  
ACTIVE SERVICE IN THE PERS**

Before you can return to active service in a PERS-eligible title you must:

1. Make a written request to return to active service to the Division of Pensions and Benefits.
2. Submit a physician's report to the Division certifying that you are no longer disabled and can return to employment. The physician should be

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one with the same specialty as the physician who originally certified that you were disabled.

3. Be examined by a physician appointed by the PERS Board of Trustees.
4. Be approved for return to active service by the PERS Board of Trustees.

When you return to active service and earn an annual salary of \$1,500 or more, you must enroll again in the retirement system. Deductions for pension are resumed and you are treated as an active employee in all respects. Upon subsequent retirement, you will receive a benefit based on total service.

### **DISABILITY RETIREES — EARNINGS AFTER RETIREMENT**

If you are a disability retiree, your annual retirement allowance may be adjusted if you have earnings from any occupation after retirement. The law states that the pension of such a retiree shall be reduced to an amount which, when added to the amount being earned by the retiree, does not exceed the amount of salary currently attributable to the former position of the retiree.

### **OTHER CONSIDERATIONS**

#### **State Health Benefits Program Retired Group Coverage**

Returning to public employment in New Jersey may affect your eligibility to continue coverage under the State Health Benefits Program (SHBP). If your retirement allowance is suspended because you return to work in a position covered by the PERS, your retired group SHBP coverage is also suspended.

If you are eligible for SHBP coverage based on your second retirement, the Division will send you an offering letter and *SHBP Retired Status Application* (for SHBP enrollment). Complete and return the application. You will be asked to submit payment with your application. If your previous coverage was State- or employer-paid, attach a note to the application identifying your prior retirement account. If you are not eligible for SHBP coverage based on your second account, you must write to the Division to have your retired coverage reinstated.

Returning to a position not covered by PERS will not affect your eligibility for retired group coverage under

the SHBP. Maintaining SHBP retired group coverage also does not affect your eligibility for active group health coverage associated with your new employment.

If you work in a position that does not entail pension membership, the time in that position does not count towards meeting service requirements for employer-paid health benefits coverage in retirement.

### **Social Security Benefits**

There is an earnings test for people under age 65 receiving social security benefits. Check with the Social Security Administration at 1-800-772-1213 for information on earnings limits before accepting employment.

### **SELF EMPLOYMENT ISSUES**

The Division of Pensions and Benefits is frequently approached by PERS retirees who seek recognition as independent contractors rather than employees. These retirees want to resume work similar to that performed while they were public employees without affecting their eligibility to receive PERS retirement benefits. While it is the public agency's responsibility to correctly classify the worker's employer-employee relationship, our experience indicates that workers are frequently incorrectly identified as independent contractors when they are, in fact, employees of the agency.

As a rule, the Division of Pensions and Benefits accepts the tests and standards used by the Internal Revenue Service and the NJ Department of Labor and Workforce Development, Division of Employer Accounts, to determine the employer-employee relationship. Since penalties levied by the IRS can be severe, both the worker and the employer should give careful consideration before classifying a worker as an independent contractor. In addition to IRS penalties and any penalties imposed by the NJ Department of Labor and Workforce Development in the event that an employee has been incorrectly classified as an independent contractor, there are penalties relating to the PERS. The employer will be assessed delinquent enrollment charges for failing to enroll an employee in the retirement system in a timely fashion. The employee will be required to refund all retirement benefits received after the date

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enrollment should have occurred. The employee must also pay any retroactive pension contributions due on the new PERS account.

The IRS test to assess the employer-employee relationship includes the following factors:

- Degree of control
- Right to discharge
- Right to delegate work
- Right to hire and fire assistants
- Payment by the hour
- Furnishing of training
- Skill
- Duration of relationship
- Control over hours of work
- Independent trade
- Furnishing tools
- Place of work
- Profit and loss
- Intent of the parties
- Principal in business
- Sequence of work
- Reports required
- Same work as others classified as employees
- Integration
- Industry custom

While none of the factors are controlling and response to all must be weighed together, under the common law definition of "employment," one of the most important factors for consideration is whether the employer has the right to instruct and control the employee in respect to the details of the work that is performed by the employee.

For additional clarification on the independent contractor issue, contact the NJ Department of Labor and Workforce Development, Division of Employer Accounts at (609) 292-2321.

**SPECIAL NOTICE FOR  
RETIREES IF REENROLLED  
TO A PERS COVERED POSITION**

**If you are reenrolled in the PERS after retirement, you are treated as an active member in all respects. Your retirement allowance is suspended as a result of a return to PERS covered employment and no retirement or insurance benefits associated with your former retirement will be paid to your beneficiary should you die during your second membership. If you are over the age of 60 when you reenroll, you will be required to prove insurability through physical examination before you will be covered by the group life insurance benefits of active members. Once you retire again, the death benefits associated with your first retirement become effective.**

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